

Administration Building  
Council Chambers  
308 Fountain Circle  
November 17, 2015  
6:00 p.m.

## **BOARD OF ZONING ADJUSTMENT**

### **Members Present:**

Mr. Bert Peake – Vice Chairman  
Mr. Fred Coffey  
Dr. David Branham  
Mr. Harry Garber  
Mr. Johnny Ozier – Supernumerary

### **Others Present:**

Mr. Jim McGuffey, City of Huntsville Planning Services  
Mr. Travis Cummings, City of Huntsville Zoning Administration  
Ms. Debra S. Hindman, City of Huntsville Zoning Administration  
Captain Jeffrey Rice, Huntsville Police Department

The regular meeting of the Board of Zoning Adjustment was called to order by Vice Chairman Peake at the time and place noted above.

Vice Chairman Peake explained the procedures of the Board of Zoning Adjustment to those present, advising that any decision made by the Board may be appealed to Circuit Court within 15 days from this date and that any variance or special exception requires four affirmative votes as set by State law. Any variance or special exception granted must be exercised within six months by obtaining the proper permit. Also, if the Board denies a request, the appellant would have to wait six months before reapplying for a variance unless there was a significant change in the appellant's request.

Vice Chairman Peake stated that the variance request for PVA landscaping and PVA lighting at 725 Memorial Parkway South has been withdrawn.

Vice Chairman Peake then called the regular agenda items.

**Case No. 8617**      **1413 Pratt Avenue;** The location of an accessory structure, total lot coverage, rear yard lot coverage, and distance separation between structures; Vincent Visone, appellant. Mr. Cummings stated that location of the property and said the request is for a 2 foot distance separation variance between a primary structure and an accessory structure, a 3 foot 1 inch rear yard setback variance for an accessory structure, a 9% total lot coverage variance, and a 27% rear yard lot coverage variance. Mr. Cummings stated that according to Article 73.8 of the

Zoning Ordinance, accessory structures must be at least 10 feet from all other structures on the lot, shall be at least 5 foot from all property lines, and shall not cover more than 30% of any required rear yard. Mr. Cummings further stated that in a Residence 1C Zoning District, total lot coverage cannot exceed 40% of the total lot area.

Mr. Vincent Visone appeared before the Board. Mr. Visone stated he would like to construct a covered porch and add a carport onto the existing detached garage. Mr. Visone stated by constructing the covered porch, it will be located 8 feet from the existing garage. Mr. Visone stated that these proposed additions will violate the maximum percentages for total and rear yard lot coverage. Mr. Visone also stated that the addition to the detached garage will violate the rear yard setback for accessory structures. Mr. Coffey asked if access to the garage is off the alley. Mr. Visone stated that the garage is accessed by the alley. Vice Chairman Peake inquired about the purpose of the addition to the garage. Mr. Visone stated that currently he is only able to park in the existing garage or in front of his house on the street. Mr. Visone stated that there is a walnut tree in front of the home that causes damage to his vehicle when parked on the street. Vice Chairman Peake asked what is being stored in the existing garage. Mr. Visone stated that the garage houses one vehicle and three motorcycles.

Vice Chairman Peake asked if the house has been added onto to in the past. Mr. Visone stated that the house was added on to years ago. Mr. Cummings stated that variances were granted in 2004 and 2008 for the additions made to the home. Mr. Cummings stated that the meeting minutes for these previous variances are available for the Board to review. Vice Chairman Peake asked if there is a history of variance requests where there is a substantial violation of the required rear yard lot coverage. Ms. Hindman stated that in 2013, the Board denied a request for a 26.2% rear yard lot coverage variance; however, the appellant returned and decreased his request substantially to a 15% rear yard lot coverage variance and was approved. Ms. Hindman stated that in 2014, the Board approved an 18% rear yard lot coverage variance.

Vice Chairman Peake stated that the porch measures 210 square feet and the garage with the proposed addition measures 480 square feet. Vice Chairman Peake inquired about the total lot coverage for the existing structures. Ms. Hindman stated that total lot coverage in 2004 and 2008 was 35% as opposed to the current 40% total lot coverage. Ms. Hindman stated that based on the meeting minutes from 2008, the appellant was granted a 6% total lot coverage variance. Ms. Hindman stated that his total lot coverage should be 41% for the existing structures.

Vice Chairman Peake inquired about the Board's thought on the variance requests. Dr. Branham stated that it appears as if Mr. Visone has already maxed out his property. Dr. Branham stated that the rear yard lot coverage request is excessive as the appellant wishes to cover 57% of the required year yard. Vice Chairman agreed that the lot would be overfilled with structures. Mr. Garber inquired about the total lot coverage should the covered porch not be constructed. Mr. McGuffey stated that it would be at approximately 44% total lot coverage.

Vice Chairman Peake asked for a motion to approve a 2 foot distance separation variance between a primary structure and an accessory structure, a 3 foot 1 inch rear yard setback variance

for an accessory structure, a 9% total lot coverage variance, and a 27% rear yard lot coverage variance at 1413 Pratt Avenue. None was given; therefore, the request was **denied**.

**Case No. 8618**      **7421 Nature Walk Way**; A special exception to allow a clubhouse; Ronald Roberts for Calvin Cowan of D.R. Horton, Inc., appellant. Mr. Cummings stated the location of the property and said the request is for a special exception to allow a recreational facility in a residential zoning district. Mr. Cummings stated that according to Article 92.5.3 of the Zoning Ordinance, a special exception is required for a semi-public, non-profit, and recreational facilities in any residential district (except miniature golf courses).

Mr. Ron Roberts appeared before the Board. Mr. Roberts stated that this is a community of approximately 100 lots. Mr. Roberts stated that the clubhouse is an open gazebo with public restrooms and a swimming pool. Mr. Roberts stated that this is a walkable subdivision, but the facility will provide 15 parking stalls. Dr. Branham asked if the clubhouse is located within the subdivision. Mr. Roberts stated that the clubhouse will be located at the end of a cul-de-sac within the subdivision. Vice Chairman Peake asked if the proposed site plan is compliant with zoning regulations. Mr. McGuffey stated that all regulations will be met. Dr. Branham inquired about the PVA lighting. Mr. McGuffey stated that the property will be lighted, but there will be no spill over onto surrounding lots. Mr. McGuffey stated that there will be shielding on the light poles and low level lighting will be used. Mr. McGuffey further stated that the lighting plan will meet the regulations. Mr. Coffey inquired about the hours of operation. Mr. Roberts stated that the clubhouse will be open from approximately 9:00 a.m. to dusk. Mr. Roberts stated that this is a smaller pool that will not have swim meets.

A motion was made Mr. Garber and seconded by Dr. Branham to approve a special exception to allow a recreational facility in a residential zoning district at 7421 Nature Walk Way. **Approved unanimously.**

**Case No. 8619**      **7520 US Highway 72 West**; The location of a sign; Kevin D. Stober of Gonzalez – Strength & Associates, Inc., for Frank Pampalone of Wal-Mart Real Estate Business Trust, appellant. Mr. Cummings stated the location of the property and said the request is for a 14 foot front yard setback variance for a ground based monument sign. Mr. Cummings stated that according to Article 24.2.4 of the Zoning Ordinance, the required setback for ground based monument signs is 50 feet.

Mr. Kevin Stober appeared before the Board. Mr. Stober stated that the monument sign is for a new Wal-Mart. Mr. Stober stated that this property was previously occupied by Academy Sports. Mr. Stober stated he would like to locate the monument sign in the same location as the old Academy Sports' sign. Mr. Stober stated that Academy Sports had a large pylon sign at that location whereas Wal-Mart will have a monument sign. Mr. Stober stated that if the monument sign were to meet the setbacks, it would be located in the turn lane. Dr. Branham asked if the size of the monument sign will be compliant. Mr. Stober stated that the monument sign will comply with the maximum size permitted. Mr. Garber asked if Academy Sports received a variance for the location of their sign. Mr. McGuffey stated that Academy Sports had a pole sign

which does not have the same setbacks as a monument sign. Mr. Stober stated that this type Wal-Mart is a new concept. Mr. Stober stated that it will have a fueling center and the grocery store is smaller and will provide a pick-up service for those who order groceries in advance. Vice Chairman Peake asked if this new store is smaller than the Wal-Mart neighborhood markets. Mr. Stober stated that this store is smaller than the neighborhood markets. Mr. Stober stated that the monument sign will display the gas prices for the fueling center and it is essential that they be seen by drivers traveling on US Highway 72 West.

A motion was made by Mr. Ozier and seconded by Mr. Garber to approve a 14 foot front yard setback variance for a ground based monument sign at 7520 US Highway 72 West subject to Traffic Engineering approval. **Approved unanimously.**

**Case No. 8620**      **4507 Triana Boulevard;** A use variance to allow a concrete business; Ben G. Lewis for Steve Williams, appellant. Mr. Cummings stated the location of the property and said the request is for a use variance to allow a concrete business in a Residence 2B Zoning district.

Mr. Ben Lewis appeared before the Board. Mr. Lewis stated that this is the old Buffalo Rock Facility. Buffalo Rock relocated their business and have a purchase agreement for this property should the use variance be approved. Mr. Lewis stated that this is not a concrete manufacturing facility; rather, the site will be used for parking of his business trucks and storage of equipment and steel forms. Mr. Lewis stated there will also be an office on site.

Vice Chairman Peake asked if there was a variance granted for Buffalo Rock. Mr. McGuffey stated that in 1986, Buffalo Rock received a use variance which allowed for warehousing space, office space, and a vending kitchen.

Mr. Coffey inquired as to what surrounds the property. Mr. Lewis stated that the property abuts a mobile home park. Mr. Lewis stated that Animal Control Services is nearby as well as Chelsea Industrial Park. Mr. Lewis stated that he notified all property owners within 500 feet and did not receive any complaints or concerns with this request. Mr. Coffey inquired as to why this property is zoned residential. Mr. McGuffey stated that the property has been zoned Residence 2B since 1963.

Vice Chairman Peake asked where the appellant's business is currently located. Mr. Lewis stated that he is renting office space at this location, but the warehousing and storage is located in the county. Mr. Lewis stated that he would like to have his business to be located on the same property. Vice Chairman Peake asked if concrete mixing will occur at this location. Mr. Lewis stated that no concrete mixing will take place at this site. Mr. Lewis stated that his business will have a lot less traffic than Buffalo Rock and he believes his proposed use is less intrusive than Buffalo Rock. Mr. Garber agreed that the appellant's use is less intrusive than the previous business.

A motion was made by Vice Chairman Peake and seconded by Mr. Coffey to approve a use

variance to allow a concrete business in a Residence 2B Zoning district at 4507 Triana Boulevard with the stipulation that the property is used for office space and storage and that no concrete mixing occurs on site. **Approved unanimously.**

**Case No. 8621**      **8580 US Highway 72 West**; The size of signage; Sunday Bougher of SGA Design Group for Wal-Mart Real Estate Business Trust, appellant. Mr. Cummings stated the location of the property and said the request is for an additional 103 square foot of attached signage. Mr. Cummings stated that a previous variance, Case No. 8088, was approved by the Board of Zoning Adjustment on May 15, 2012. Mr. Cummings stated that the previous variance allowed an additional 151 square foot of attached signage for a total of 501 square foot. Mr. Cummings stated that according to Article 72.4.4 of the Zoning Ordinance, with a maximum sign size for each establishment of 350 square feet.

Ms. Sunday Bougher appeared before the Board. Ms. Bougher stated that this is an addition to the existing Wal-Mart. Ms. Bougher stated that Wal-Mart is introducing online grocery shopping where customers will order their groceries and prescriptions online and have them delivered to their car from the pickup center. Ms. Bougher stated that the proposed signage is way-finding signage that will not be visible to the road. Ms. Bougher stated that the proposed signage takes up approximately 4% of the building's front façade. Ms. Bougher stated that the addition will be at the back of the existing building and will not be visible due to landscaping. Ms. Bougher stated that the lettering of the signage will be located on the building.

Ms. Mary June Moore of 8554 and 8560 US Highway 72 West appeared before the Board. Ms. Moore stated she just wanted further information in regards to the variance request. Ms. Moore stated she is not opposed to the request.

Dr. Branham stated that the total proposed square footage is a substantial. Vice Chairman Peake asked if the Board has considered previous variance requests of this nature. Mr. McGuffey stated that the Board has previously approved variances at different Wal-Mart locations for additional attached signage based on the scale of the building and the setback from the road. Mr. Cummings stated that there are also outparcels in front of the Wal-Mart that block visibility as well. Mr. Coffey stated that he is not opposed to the variance as this is a unique situation in that the addition is behind the existing building and does not front US Highway 72 West.

A motion was made by Mr. Coffey and seconded by Dr. Branham to approve an additional 103 square foot of attached signage to include a previously granted variance allowing an additional 151 square foot of attached signage for a total of 604 square foot at 8580 US Highway 72 West due to the scale of the building and the setback of the building from the property line and as presented. **Approved unanimously.**

**Case No. 8622**      **111 Marsheutz Avenue**; A use variance to allow a medical office; Jeff Copeland of Copeland Properties, LLC, appellant. Mr. Cummings stated the location of the property and said the request is for a use variance to allow a medical office in a Residence 2 Zoning District.

Mr. Jeff Copeland appeared before the Board. Mr. Copeland presented pictures to the Board showing the newly renovated building. Vice Chairman Peake stated that the appellant has made significant improvements to this property. Vice Chairman Peake asked if surrounding property owners were notified of the variance request and if there were any concerns. Mr. Copeland stated that he mailed out approximately 75 letters to surrounding property owners. Mr. Copeland stated that he has received only positive feedback as he has completely renovated what was once a dilapidated building. Mr. Copeland stated that he was previously approved for a use variance to allow a dental office, but he has since also received offers for medical clinics. Mr. Copeland stated that all offers are to purchase the property. Mr. Coffey inquired about the type of medical clinics that would like to purchase the property. Mr. Copeland stated that he has an offer from Dr. Hayley DeGraaff of Advanced Life Clinic. Mr. Copeland stated that her business is a weight loss management and aesthetician clinic. Mr. Copeland stated that he has also received an offer for a counseling center.

Vice Chairman Peake asked if this building allows for more than one occupant. Mr. Copeland stated that this is a single occupancy building with one entrance. Vice Chairman Peake inquired about the size of the building. Mr. Copeland stated that the building is 4500 square feet. Mr. Coffey asked what all uses would be permitted under the broad term "medical office". Mr. McGuffey requested that if a motion is made, it be restricted to the type of medical offices that they would allow at the location. Mr. Copeland stated that when he last came before the Board, surrounding neighbors were concerned that an abortion clinic would be permitted at this location since it is a medical office. Mr. Copeland stated that he will not allow an abortion clinic at this location. Vice Chairman Peake stated that the Board must consider the impact of traffic. Vice Chairman Peake asked if the proposed medical offices will have a greater or lesser impact on traffic than the dental office that operated at this location for many years. Mr. Copeland stated that the proposed uses will have a lesser impact as there were two dentists operating at this location at that time. Mr. Copeland stated that Dr. DeGraaff will only have four exam rooms. Mr. Copeland further stated that there are 40 available parking spaces on the lot as well.

Vice Chairman Peake asked for feedback from Board members. Mr. Coffey stated that granting a variance for a medical office is too broad and may allow for uses that would negatively affect the community. Mr. Coffey stated that a physician's office is no more intrusive than the previous operation of a dental office; however, he is not in support of allowing any type medical facility at that location. Ms. Hindman stated that the Board can stipulate the type uses they believe will be conducive to the area. Ms. Hindman stated that the Board can include that the uses be restricted to the previously granted dental office, Dr. DeGraaff's medical office, and a counseling center. Ms. Hindman stated that all of these uses would be considered medical; however, the location would only allow for these three medical uses. Mr. Garber recommended that if a motion is made, it should be restricted to the medical offices that have made offers to purchase the property. Vice Chairman Peake stated that if neither offers are accepted, the appellant can come back with another use variance request.

A motion was made by Mr. Coffey and seconded by Mr. Garber to approve a use variance to

allow a medical office in a Residence 2 Zoning District at 111 Marsheutz Avenue due to the fact that the property was previously approved for a dental clinic and with the stipulation that the current varied uses be restricted to counseling services and a weight loss management and aesthetician clinic. **Approved unanimously.**

**Case No. 8623**      **2135 Winchester Road;** A variance to allow metal siding as an exterior building finish; Leonard Holden, Jr., and David Crawford, Sr., for Morris Chapel Primitive Baptist Church. Mr. Cummings stated the location of the property and said the request is for a variance to allow metal siding as an exterior building finish in a Residence 1A Zoning District. Mr. Cummings stated that according to Article 11.6, the use of aluminum, steel or other metal siding or cladding as an exterior building finish on newly constructed non-residential buildings and structures, and on newly constructed accessory structures with a building footprint in excess of 1,000 square feet, is prohibited.

Mr. Leonard Holden, Jr., and Mr. Jerry Johnson appeared before the Board. Mr. Holden stated that his church would like to construct a new building to the church. Mr. Holden stated that the building would include an education center and a new fellowship hall. Mr. Holden stated that he would like to use a 24 gauge architectural design metal as opposed to using vinyl siding. Mr. Holden stated that this type metal siding is more durable than vinyl siding and more aesthetically pleasing. Mr. Holden stated that this type finish will have no exposed fasteners. Mr. Holden stated that allowing the addition to be constructed with a metal finish, it would match the existing church.

Vice Chairman Peake asked if the existing church was constructed with the traditional metal finish. Mr. Holden confirmed that the church is a traditional metal finish as it was constructed in 2005, prior to the Zoning Ordinance amendment. Mr. McGuffey stated that the Zoning Ordinance was amended in 2008 to restrict aluminum, steel, or metal siding as an exterior finish for structures that exceed 1000 square feet in residential zoning districts.

Mr. Coffey inquired about the previously granted variance for allowing metal siding as an exterior finish. Mr. McGuffey stated that on April 21, 2015, the Board approved a similar variance at 845 Slaughter Road due to the fact that the City is in consideration of revising the ordinance for metal siding in residential districts and with the stipulations that the amount of masonry and stone indicated on the elevation be maintained, the window spacing be adjusted to align with the panels, the structure not look like the typical metal building, no exposed fasteners, flush panel, and the product meets energy code. Mr. Coffey asked if the proposed metal finish is similar to what was previously presented. Mr. McGuffey stated that this product is the same as it meets the energy code requirements, there are no exposed fasteners, and the product is insulated. Mr. Coffey asked if this material is safer in a wind storm than traditional metal siding. Mr. McGuffey stated that this material is safer than metal siding. Mr. Coffey asked if the City is still planning to amend the Zoning Ordinance to require a special exception for metal siding as opposed to a variance request. Mr. McGuffey stated that the Zoning Ordinance is being amended and should be adopted at the end of this month.

Dr. Branham inquired about the size of the new building. Mr. Holden stated that the building will be 4800 square feet and located at the back of the church. Vice Chairman Peake inquired about the size of the existing building. Mr. Johnson stated that the existing building is 6000 square feet. Vice Chairman Peake asked if the City had any issues with this variance request. Mr. McGuffey stated that the City has no issues.

A motion was made by Dr. Branham and seconded by Mr. Ozier to approve a variance to allow metal siding as an exterior building finish in a Residence 1A Zoning District at 2135 Winchester Road based on the presented metal siding and the proposed Zoning Ordinance amendment. **Approved unanimously.**

**Case No. 8624**      **402 Governors Drive;** PVA landscaping; Jeff Lindy of Harvard Chicken, Inc., appellant. Mr. Cummings stated the location of the property and said the request is for a 5 foot perimeter landscape variance. Mr. Cummings stated that according to Article 71.4.2(1) of the Zoning Ordinance, perimeter landscaping areas shall be at least 5 continuous feet in depth, excluding walkways, measured perpendicularly from the adjacent property line or right-of-way to the back of curb or pavement edge.

Mr. Jeff Lindy and Mr. Steve Schneider appeared before the Board. Mr. Schneider stated that he is the architect for this project. Mr. Schneider stated that they are constructing a new Popeye's restaurant at this location. Mr. Schneider presented plans to the Board for their review. Mr. Schneider stated that the existing building will be demolished and the parking lot will be redesigned.

Mr. Schneider stated that the property currently has asphalt up to the curb. Mr. Schneider stated that they are unable to install parallel parking; rather, the parking spaces must be angled. Mr. Schneider stated that the angled parking will allow for the installation of perimeter landscaping; however, they are unable to meet the required 5 contiguous feet of perimeter landscaping. Mr. Schneider referred to the plans and explained that with the angled parking, the perimeter landscaping will alternate from 2 feet to 8 feet. Mr. Schneider stated that although they are unable to meet the required 5 contiguous feet of perimeter landscaping, they will exceed the required amount of plant material. Mr. Schneider further stated that the landscaping will be compliant along the front and rear yard lot lines.

A motion was made by Mr. Ozier and seconded by Mr. Garber to approve a 5 foot perimeter landscape variance at 402 Governors Drive with the stipulation that the required plant material will be met. **Approved unanimously.**

There being no further business, the meeting adjourned at 7:30 p.m.